

Amendment in response to April 5, 2004 Office Action
App. Ser. No. 09/994,049
Atty. Docket No.: 8932-573

AMENDMENTS TO THE DRAWINGS

The Examiner reiterated the objection to the drawings filed on November 27, 2001 on the grounds that the applicants have not filed the corrected drawings which were sent on August 13, 2003 to the Examiner for approval, and which were approved in the Office Action mailed on November 4, 2003. Applicants hereby file the corrected drawings which can be found on the replacement sheet attached hereto at Tab A.

REMARKS CONCERNING CLAIM REJECTIONS

Claims 1, 4-20, 22-29, 31, and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Klaue et al. (U.S. Patent No. 5,810,823) in view of Frigg et al. (U.S. Patent No. 6,206,881). In response, independent claim 1 has been amended to include the following requirements: (1) the upper surface of the bone plate has “a first upper portion and at least one second tapered portion”; and (2) the “at least one second tapered portion, [is] located at at least one of the holes, and slop[es] in a direction toward the lower surface such that a gap is formed between the first upper portion of the upper surface of the bone plate and an upper portion of a bone screw secured in the hole.” Independent claims 16, 20, 24 and 27 have been similarly amended. Support for these amendments can be found both in the text of the specification (e.g., at paragraph 0015) and in Fig. 1 (where the tapered portion and aforementioned gap can be seen). Originally-filed claim 8, which recited “an indentation [] provided in the upper surface opposite the protrusion” and “substantially concentric with the protrusion,” and originally-filed claim 23, which recited “a recess in the upper surface . . . taper[ing] radially inward in a direction from the upper surface toward the bone-contacting surface,” provide additional support for these claim amendments. Applicants submit that Klaue et al. and Frigg et al. do not teach, suggest, or disclose the aforementioned features. Claims 8 and 23 have been cancelled.

These claim amendments do not represent acquiescence in the Examiner’s rejections, but rather are made to further clarify and define the present invention and expedite prosecution of this application.

Reconsideration of this application and allowance of claims 1, 4-7, 9-20, 22, 24-29, and 31-32 are respectfully requested in view of the amendments and remarks above.

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The Examiner is invited to call the undersigned attorney, if a telephone call could help resolve any remaining items.

No fee is believed to be due with this submission. If, however, any fee is required, please charge such fee(s) to Jones Day Deposit Account No. 50-3013.

Date: June 4, 2004

Respectfully submitted,
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